

**HOVENWEEP NATIONAL MONUMENT
WATER RIGHTS SETTLEMENT AGREEMENT**

This Agreement is made and entered into by the United States of America (United States) and the State of Utah (Utah).

RECITALS

A. Utah has initiated a statutory adjudication of water rights entitled, "In the Matter of the General Determination of rights to the Use of Water, both Surface and Underground, within the Drainage Area of the Colorado River in San Juan, Grand and Uintah Counties, Utah, and exclusive to the Green River Drainage," filed in Grand County Civil No. 810704477. This adjudication is commonly referred to as the Southeastern Utah Colorado River Adjudication and encompasses the Hovenweep National Monument within the San Juan River drainage (Area 09). The United States has not been served a summons in this adjudication and has not filed a Water User's Claim for the Monument. In order to remove causes of present and future controversy over use of water at Hovenweep National Monument, the United States and Utah have conducted negotiations regarding inchoate reserved water rights claims for Hovenweep National Monument, resulting in the present agreement.

B. These negotiations have resulted in the settlement of issues and recognition of the federal reserved water rights of the United States for Hovenweep National Monument, subject to certain conditions, as set forth herein.

AGREEMENT

NOW, THEREFORE, based on the mutual promises contained herein, the parties agree to the following:

1. Hovenweep National Monument was established by Presidential Proclamation No. 1654, 42 Stat. 2299, dated March 2, 1923; Presidential Proclamation No. 2924, 65 Stat. c8, dated April 26, 1951; Presidential Proclamation 2998, 65 Stat. c21, dated November 20, 1952; Presidential Proclamation 3132, 70 Stat. c26, dated April 6, 1956; 16 U.S.C. § 431; and the National Park Service Establishment Act of August 25, 1916, 64 Stat. 535, 16 U.S.C. § 1, for the purposes of preserving and interpreting four groups of ruins including structures of the finest prehistoric masonry to be found in the United States, preserving the area for scientific research, protecting objects of historic and scientific interest, and pursuant to the National Park Service Establishment Act, for the conservation of "the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations." 16 U.S.C. § 1.

2. Subject to the provisions of paragraph 7 below, the United States has a reserved right to all water underlying, originating within or flowing through Hovenweep National Monument, including intermittent and ephemeral streams, springs, seeps, ground water, and other natural sources of water, pertaining or belonging to the reserved lands, that was unappropriated as of the dates of reservation of the lands now within the boundaries of the monument, which waters are to remain in a free flowing and natural condition, subject to present and future administrative uses necessary to fulfill reservation purposes and the conditions set forth in this agreement.

3. The aliquot part descriptions of these reserved lands are set forth in the applicable proclamations and legislation identified above, and in Appendix A. The date of priority for either in-situ or administrative uses of the United States' federal reserved water rights for Hovenweep National Monument will be the date on which the place of use was first reserved from the public domain for monument purposes.

4. The federal reserved water rights recognized hereby include all water rights of every nature and description derived from the federal reserved water rights doctrine, from all sources of water, both surface and underground, and includes all types and kinds of uses whatsoever, and encompasses all claims asserted by or through the United States for Hovenweep National Monument as now constituted. This federal reserved water right originates and is defined in Federal law. Absent future Congressional or Presidential action, the federal reserved water rights for the lands now constituting Hovenweep National Monument shall not be enlarged, expanded or re-quantified.

5. Appendix B, which is attached hereto and made part of this Agreement, lists the present diversion works and springs associated with federal reserved water rights on the lands reserved from the public domain at Hovenweep National Monument. The table shows the source of water, priority date, legal location, place of use, type of use, period of use, and existing diversion rate for each well and spring. The National Park Service may divert up to 8.0 acre-feet per annum and deplete up to 4.0 acre-feet per annum from within the exterior boundaries of Hovenweep National Monument, including the sources listed in Appendix B, to satisfy existing and future requirements for the operation, administration, and protection of Hovenweep National Monument, including but not limited to excavation, restoration and preservation of ruins and structures, construction of visitor facilities, domestic uses, campground purposes, irrigation, and fire suppression. In developing any waters set forth in this paragraph, the sources of water shall be within the boundaries of the Monument.

6. The United States agrees to provide at least 180 days prior written notice to the State Engineer before developing and/or using any new source of water, not described in Appendix B, for administrative purposes associated with this federal reserved water right.

Notification will include the location and means of diversion, the source, quantity and diversion rate of water, depth and diameter of well (if applicable), the nature of use, the anticipated date the water will be placed in use, and a map depicting the proposed development. This information will be publicly available.

7. Except for those federal reserved water rights used for administrative uses, as set forth in paragraph 5, the United States hereby expressly subordinates its federal reserved water rights for Hovenweep National Monument to all valid existing perfected water rights and approved applications with priority dates prior to January 1, 1998.

8. Utah shall establish ground-water protection zones to protect the flow of the springs for both the Square Tower and Cajon units as shown in Appendix C. The ground-water protection zone for the Square Tower unit will include Sections 8 and 9, the S1/2 of Section 15, Sections 16, 17, 18, 20, 21, and 22, Township 39 South, Range 26 East, SLB&M. The ground-water protection zone for the Cajon unit will include Section 16, the SE1/4 of Section 17, the NE1/4 of Section 20, and the N1/2 of Section 21, Township 40 South, Range 25 East, SLB&M.

9. New applications for wells applied for under state law and approved after the effective date of this agreement in both ground-water protection zones will be limited to a maximum individual well diversion rate of 0.015 cfs and a total annual withdrawal of 3.0 acre-feet. New applications filed for wells in the Square Tower ground-water protection zone will be required to perforate below and grout the annulus above the elevation of 5,100 feet above mean sea level (amsl); new applications filed for wells in the Cajon ground-water protection zone will be required to perforate below and grout the annulus above the elevation of 5,000 feet amsl. These protection measures will prevent the interception of ground water flowing to the Square Tower and Cajon springs.

10. The United States may, to the extent and upon proof that specific diversions developed in the future are causing or may cause specific and significant adverse impacts to an identifiable resource or resources of Hovenweep National Monument, seek enforcement of the rights described herein through State or Federal law. This notwithstanding, the rights described herein are subordinated to and shall be unenforceable against any water rights presently perfected or approved under State law with priority dates prior to January 1, 1998.

11. If any provision of this Agreement is found to be unlawful and of no effect, the remaining provisions shall remain in effect and fully binding on the parties, and if necessary, the parties hereto shall resume negotiations to revise any such unlawful provision.

12. Upon a proper showing of necessity, the provisions of this Agreement may be modified only upon the mutual consent of the parties to this Agreement, which consent shall not be unreasonably withheld.

13. Because of the unique nature of Hovenweep National Monument, nothing in this Agreement shall constitute an admission, waiver or precedent as to any party for any other federal reserved water right claim in the State of Utah.

14. Nothing in this Agreement shall be construed or interpreted to:

a. in any way affect the water rights of the United States in the Colorado River Basin within the Southeastern Utah Colorado River Adjudication for federal agencies and federal interests other than Hovenweep National Monument;

b. establish any standard to be used for the quantification of federal reserved water rights in any other judicial or administrative proceeding;

c. limit in any way the rights of the parties or any person to litigate any issue or question not resolved by this Agreement;

d. restrict the power of the United States to reserve water in the future, or to acquire additional rights to the use of water under the laws of Utah; or

e. restrict the power of Utah or the State Engineer to allocate, administer, or distribute the waters of the State.

15. The water rights of the United States, as set forth and quantified herein, shall be protected under State law in the same manner as any water right originating under State law, without losing its character as or the attributes of a federal reserved water right as provided under Federal law.

16. The provisions of this Agreement shall be taken into consideration by the State Engineer in acting upon applications, under State law, for new appropriations or change applications located within the protection zones or up gradient of Hovenweep National Monument and shall be afforded the same consideration in such proceedings as state appropriative rights; however, the United States shall have the primary responsibility for protecting its own rights and for filing appropriate protests in any proceedings before the State Engineer.

17. The United States and Utah agree that this agreement will define the United States' water rights for Hovenweep National Monument in the Southeastern Utah Colorado River Adjudication. The United States has not been served a summons in this adjudication. Upon service of the United States in the adjudication, Utah agrees to issue, within a reasonable time, a Proposed Determination which includes the water rights for Hovenweep National Monument. The parties hereto will cooperate to obtain an interlocutory decree on the Proposed Determination. If the parties hereto are not successful in securing the

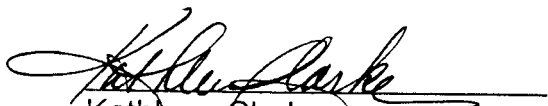
interlocutory decree, this Agreement shall nevertheless remain binding as among the parties until a final decree is issued covering these water rights.

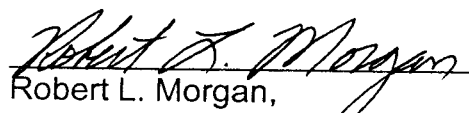
18. Upon written request from the United States, the State Engineer will provide information regarding new diversions of water near Hovenweep National Monument.

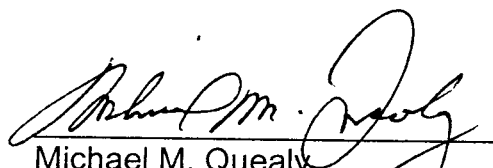
19. This Agreement is executed in duplicate. Each of the duplicate copies bearing original signatures shall be deemed an original.

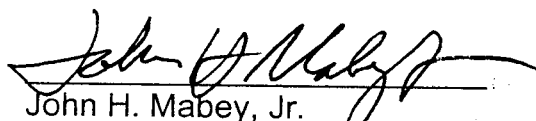
It being resolved and agreed to as delineated above, the undersigned parties express their mutual agreement hereto this 24 day of April, 2000.

For the State of Utah:



Kathleen Clarke
Executive Director, Department
of Natural Resources

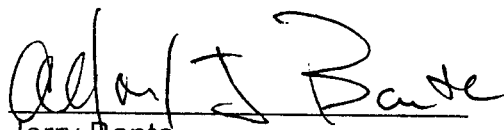

Robert L. Morgan,
State Engineer

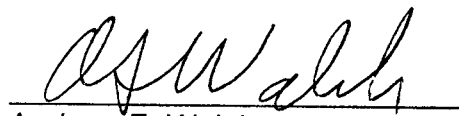

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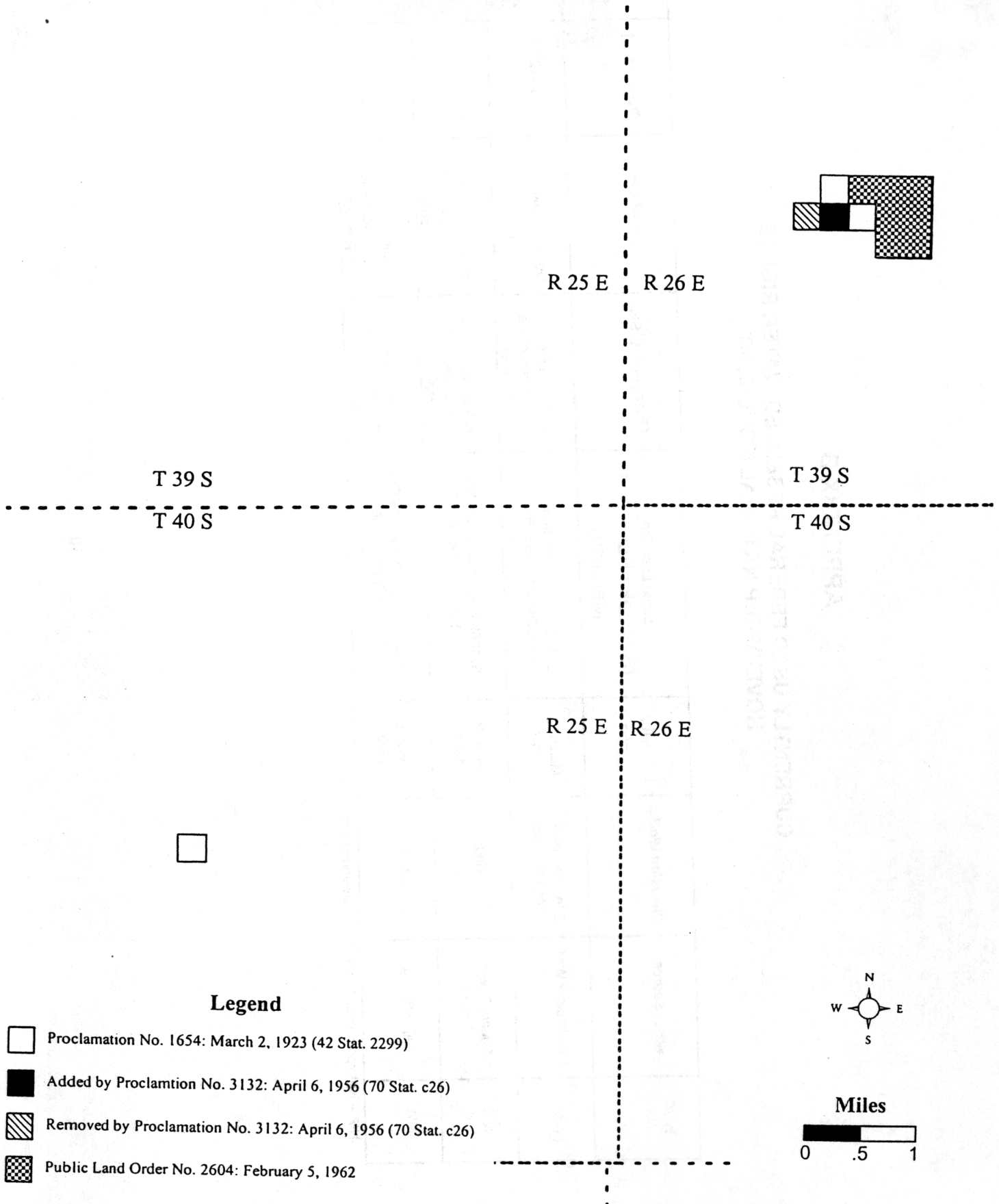

Andrew F. Walch
Department of Justice


A. Scott Loveless
Office of the Solicitor

Appendix A

Hovenweep National Monument (Utah portion only)

Dates of Land Reservations



APPENDIX B

CURRENTLY USED FEDERAL RESERVED WATER RIGHTS HOVENWEEP NATIONAL MONUMENT

WUC No.	Water Source	Diversion Works	Priority Date	Legal Location (Salt Lake Basin and Meridian)	Place of Use	Type of Use	Period of Use	Current Diversion Rate (cfs)
09-317	Headquarter Well	8 In. Dia. Well - 1440 Ft Deep	March 2, 1923	S. 1525 ft E. 1598 ft. from NW Cor. Sec. 21, T39S, R26E	Within the Exterior Boundaries of the Monument	Domestic and Other	01/01-12/31	.0557
N/A	Square Tower Spring	Spring	March 2, 1923	S. 1069 ft, W. 1030 ft from NE Cor. Sec. 20, T39S, R26E	Within the Exterior Boundaries of the Monument	Cultural Resources and Aesthetic Purposes	01/01-12/31	Not Applicable
N/A	Cajon Spring	Spring	March 2, 1923	S. 1045 ft, E. 757 ft from NW Cor. Sec. 12, T40S, R25E	Within the Exterior Boundaries of the Monument	Cultural Resources and Aesthetic Purposes	01/01-12/31	Not Applicable

N/A - Not applicable. State has not assigned a number.

Appendix C
Ground-Water Protection Zone
Square Tower and Cajon Units, Hovenweep National Monument

